IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH OCTOBER 2006 / 12TH ASWINA 1928

WP(C).No. 25000 of 2003(A)

PETITIONER:

P.R. PREMKUMAR, LAKSHMI VILAS,
KANJIRAMKULAM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.D.KISHORE

RESPONDENTS:
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1. **THE DISTRICT COLLECTOR,**
   THIRUVANANTHAPURAM.

2. **THE DEPUTY TAHSILDAR (R.R.)**
   NEYYATTINKARA.

3. **THE CANARA BANK, NEYYATTINKARA,**
   THIRUVANANTHAPURAM, REPRESENTED BY
   ITS MANAGER.

4. **STATE OF KERALA, REPRESENTED BY**
   ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

BY ADV. SRI.P.K.RAVISANKAR
BY GOVERNMENT PLEADER SRI.SHYSON P.MANKUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.25000/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PASS SHEET ISSUED BY THE 3RD RESPONDENT EVIDENCING THE DEPOSITS MADE BY THE PETITIONER AND THE BALANCE ALLEGED AMOUNT AS ON 3.7.02.

EXT.P2:- COPY OF THE REPRESENTATION DT.NIL SUBMITTED BY THE PETITIONER BEFORE THE SENIOR MANAGER, CANARA BANK, NEYYATTINKARA.

EXT.P3:- COPY OF THE DEMAND NOTICE DT.31.5.03 ISSUED BY THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE RELEVANT EXTRACT OF THE SRO 1467/87 PUBLISHED AS NOTIFICATION NO.54415/S3/86/RD DT.13.10.87 IN KERALA GAZETTE DT.17.11.87.

.EXT.P5:- COPY OF THE NOTIFICATION G.O. MS 306/99/RD DT.30.1.99 PUBLISHED IN KERALA GAZETTE ON 31.8.99.

/TRUE COPY/

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C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 25000 OF 2003

Dated this the 4th day of October, 2006

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of loan due to the third respondent-Bank. Even though Writ Petition is pending for the last three years, Bank was not cared to file a counter affidavit. The specific case of the petitioner is that revenue recovery proceedings cannot be initiated for recovery of balance arrears due in respect of vehicle loan availed by the petitioner. The Government of Kerala vide notification SRO 1465 of 1987 issued under Section 71 of the RR Act has extended the benefit to Banks for recovery of all priority loans given under the Development Schemes through revenue recovery proceedings. Loans under Development Schemes cover all priority sector advances which are agriculture, small scale industries, loans to retail traders, transporters, professional loan, loan to self-employed persons, etc. Petitioner claims to be an employee working on wages in another company. On going through various categories of priority sector advances which are described in the judgment of this Court in the case reported in DHANALAKSHMI BANK LTD. V. DIST COLLECTOR, (2003) 1 K.L.T. 1024, I do not

find vehicle loan given to petitioner, who is an employee in a private sector, can be treated as priority sector advance entitling the Bank to recover through revenue recovery proceedings. Therefore revenue recovery proceedings is prima facie not maintainable. Besides this, it is conceded that Bank has advanced loan without any collateral security. In other words, Bank was sure of recovering the money by attachment of hypothecated vehicle. Petitioner has stated that vehicle was sold for Rs. 80,000/- and that too without petitioner's knowledge. If vehicle was sold without following any fair procedure of publication, then it is open to the petitioner to proceed against the Bank for causing loss to him. However, Bank is free to proceed for recovery against the petitioner or guarantors if any by filing suit or appropriate proceedings before the civil court.

O.P. is allowed by vacating the revenue recovery proceedings. If the Bank chooses to file suit, then it is entitled to exclude from the period of limitation, the period during which this O.P. was pending in this Court, that is from 4.8.2003 to till date.

(C.N.RAMACHANDRAN NAIR)
Judge